

City Council Introduction: **Monday**, August 29, 2005
Public Hearing: **Monday**, September 12, 2005, at **1:30 p.m.**

Bill No. 05-96

FACTSHEET

TITLE: STREET & ALLEY VACATION NO. 02003, requested by Hartland Homes, Inc.; Hartland Homes Investments; Section 42 Partners, LTD I; and Todd and Melanie Miller, to vacate West Madison Avenue from a point 7.17 feet west of the west line of N.W. 49th Street to N.W. 53rd Street.

STAFF RECOMMENDATION: A finding of conformance with the Comprehensive Plan.

ASSOCIATED REQUESTS: Special Permit No. 1965, Hartland Homes N.W. 1st Community Unit Plan (05R-169); Preliminary Plat No. 02007, Hartland Homes N.W. 1st Addition (05R-170); and Street Vacation No. 03006 (05-97).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda: 05/29/02
Administrative Action: 05/29/02

RECOMMENDATION: A finding of conformance with the Comprehensive Plan (5-0: Carlson, Duvall, Newman, Schwinn and Steward voting 'yes'; Krieser, Larson, Bills-Strand and Taylor absent).

FINDINGS OF FACT:

1. This street vacation request is associated with the Hartland Homes N.W. 1st Addition community unit plan and preliminary plat.
2. The staff recommendation to find the proposed street vacation to be in conformance with the Comprehensive Plan is based upon the "Analysis" as set forth on p.3.
3. On May 29, 2002, this proposed street vacation appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
4. On May 29, 2002, the Planning Commission agreed with the staff recommendation and voted 5-0 to find the proposed street vacation to be in conformance with the Comprehensive Plan.
5. The valuation assessment by the City's appraiser is found on p.10-11.
6. The provisions of Chapter 14.20 have been satisfied.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: August 22, 2005

REVIEWED BY: _____

DATE: August 22, 2005

REFERENCE NUMBER: FS\CC\2005\SAV.02003

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Street and Alley Vacation #02003 **DATE:** May 10, 2002
W. Madison Avenue from NW 49th Street to NW 53rd Street

PROPOSAL: To vacate W. Madison Avenue from NW 49th Street to NW 53rd Street.

LAND AREA: 1.15 acres, more or less

CONCLUSION: With conditions, this vacation conforms to the Comprehensive Plan.

<u>RECOMMENDATION:</u>	Conforms to the Comprehensive Plan
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GENERAL INFORMATION:

LEGAL DESCRIPTION: W. Madison Avenue from a point 7.17 feet west of the west line of NW 49th Street to NW 53rd Street.

LOCATION: NW 53rd Street east of the existing W. Madison Avenue

<u>APPLICANT:</u>	Duane Hartman Hartland Homes, Inc. & Hartland Homes Investments P.O. Box 22787 Lincoln, NE 68524 (402)477-6668	Todd and Melanie Miller 2720 NW 53 rd Street Lincoln, NE 68524 (402)470-0227
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Section 42 Partners, LTD I
P.O. Box 6035
Lincoln, NE 68506

OWNER: same

CONTACT: Duane Hartman

EXISTING ZONING: R-3, Residential and B-1, Local Business District

EXISTING LAND USE: Not currently being used as right-of-way, vacant.

SURROUNDING LAND USE AND ZONING:

North:	Commercial, residential and vacant	R-3, Residential, B-1, Business
South:	Residential	R-3
East:	Residential	R-3
West:	Residential	R-3

COMPREHENSIVE PLAN SPECIFICATIONS: The Land Use Plan indicates this area as urban residential (page 39) and commercial.

HISTORY: This area was zoned A-A, Rural and Public Use District, A-2, Single Family Dwelling District and G, Local Business District until it was updated in 1979 updated to R-3, Residential and B-1, Local Business during the zoning update.

City Council Denied Change of Zone #1582 from A-A, Rural and Public Use District to G, Local Business District on Lot 3, Block 5, Airport Heights Addition to the north of Madison Avenue in November 1977.

City Council approved Change of Zone #1429 from A-A, Rural and Public Use to G, Local Business on Lots 1,2, 35 and 36, Block 5, Airport Heights Addition to the north of Madison Avenue in June 1975.

UTILITIES: The Public Works & Utilities Department indicated that the Lincoln Wastewater Department has an existing sanitary sewer in the south half of W. Madison Avenue right-of-way.

TRAFFIC ANALYSIS: NW 53rd, NW 49th Streets, W. Madison Avenue are considered local streets in the Functional Street and Road Classification in the Comprehensive Plan (page 91).

ANALYSIS:

1. This is a request to vacate W. Madison Avenue so the developer can preliminary plat a new layout for the area.
2. The Public Works & Utilities Department indicated that the south 30 feet of W. Madison Avenue be retained as a permanent easement until the developer preliminary plats the area to relocate the sewer.
3. The street vacation will leave lots without frontage or access. The applicant must submit a plat that indicates lots with frontage and access in compliance with Title 26 Land Subdivision Ordinance prior to scheduling on City Council. Then the vacation can be approved by the City Council, ownership transferred to the subdividers and the final plat filed with the Register of Deeds.

**BEFORE THE VACATION REQUEST IS SCHEDULED ON THE CITY COUNCIL AGENDA
THE FOLLOWING MUST BE COMPLETED:**

- 1.1 The provisions of Chapter 14.20 of the Lincoln Municipal Code are met.
- 1.2 The abutting owners must submit a final plat that will create lots that front on and have access to public streets or private roadways and all requirements of the final plat have been completed except the transfer of ownership of the vacated street to the subdividers.

Prepared by:

Becky Horner
Planner

STREET & ALLEY VACATION NO. 02003

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

May 29, 2002

Members present: Carlson, Duvall, Newman, Schwinn and Steward; Krieser, Larson, Bills-Strand and Taylor absent.

The Consent agenda consisted of the following items: **CHANGE OF ZONE NO. 3365; FINAL PLAT NO. 02014, HIGHLANDS BUSINESS PARK 2ND ADDITION; COMPREHENSIVE PLAN CONFORMANCE NO. 02002, FY 2002 ACTION PLAN; and STREET AND ALLEY VACATION NO. 02003.**

Carlson moved to approve the Consent Agenda, seconded by Duvall and carried 5-0: Carlson, Duvall, Newman, Schwinn and Steward voting 'yes'; Krieser, Larson, Bills-Strand and Taylor absent.

Note: This is final action on the Highlands Business Park 2nd Addition Final Plat No. 02014, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.



Street & Alley Vacation #02003
W. Madison Ave., from NW 49th to NW 53rd



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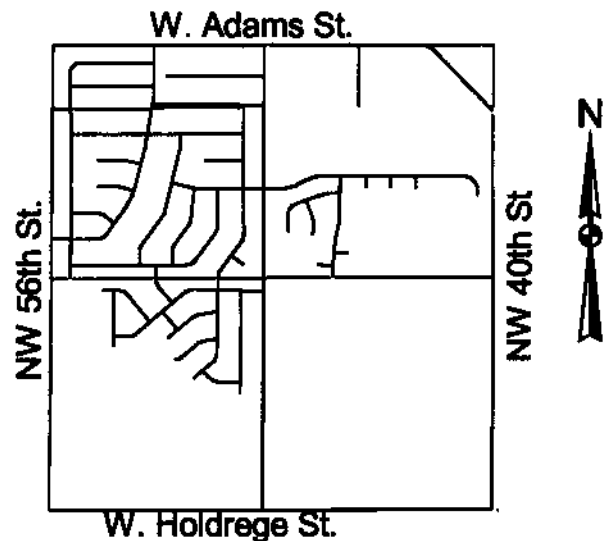
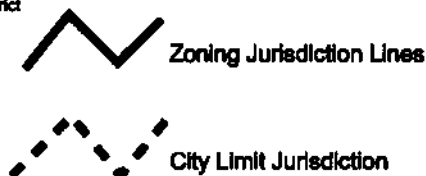


Street & Alley Vacation #02003 W. Madison Ave., from NW 49th to NW 53rd

Zoning:

R-1 to R-4	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 18 T10N R6E



007

Lincoln



Nebraska's Capital City

May 1, 2002

Lincoln City/Lancaster County
Planning Commission
Lincoln, Nebraska 68508

RE: Vacating West Madison Avenue from a Point 7.17 Feet West of the West Line of Northwest 49th Street to Northwest 53rd Street

Dear Ladies and Gentlemen:

The Department of Public Works and Utilities has received sufficient and proper petitions from Duane Hartman, President of Hartland Homes, Inc., owners of Outlot 'D' Hartland Homes Northwest 2nd Addition, Lots 21 through 34, Block 5, Lots 1 through 12, Block 4, Airport Heights Addition, and Lot 16 I. T., all located in the north ½ of Section 18, T10N, R6E. Todd and Melanie Miller, owners of Lot 1, Block 8 Olympic Heights 1st Addition Section 42 Partners, LTD I, owners of the west 112.83 feet of Lot 1, Block 1 Olympic Heights Addition, and Duane Hartman, President of Duane Hartman Investments, owners of the west 21.13 feet of Lot 35, Block 5 Airport Heights Addition, to vacate the above described public right-of-way. Petitioners are making this request to vacate in order to create a new preliminary plat and community unit plan.

The City of Lincoln Wastewater Department has an existing sanitary sewer in the south half of West Madison Avenue right-of-way. Public Works is asking that the south 30 feet of Madison Avenue right-of-way be retained as a permanent easement or the developer of the preliminary plat relocate the sewer.

The Department of Public Works recommends approval of this vacation request with the following conditions: 1) the developer submits a preliminary plat and final plat for this area to replat the street in a new location and 2) addresses the issue of the existing sanitary sewer. This vacation contains an area of 50,270.40 square feet, more or less.

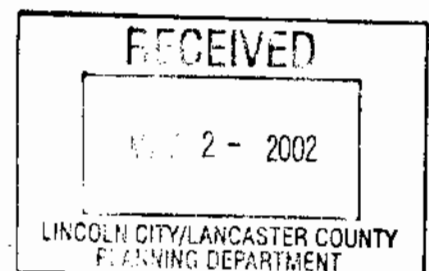
Sincerely,



Byron Blum
Engineering Services

cc: Mayor Wesely
Allan Abbott
Kent Morgan
Marc Wullschleger
Roger Figard
Nicole Fleck-Tooze
Joan Ross
Dana Roper

W Madison Vac rdm.wpd



SAV.02003

INTEROFFICE MEMORANDUM

RECEIVED

OCT 24 2002

LINCOLN CITY/LANCASTER COUNTY
PLANNING DEPARTMENTTO: Mayor Wesely
& City Council Members

FROM: Clinton W. Thomas

DEPARTMENT: City Council Office

DEPARTMENT: Real Estate Division

ATTENTION:

DATE: October 23, 2002

COPIES TO: Joan Ross
Marvin Krout
Dana Roper
Byron BlumSUBJECT: Vacation of West Madison Avenue
from a point 7.17 feet west of the
west line of NW 49th Street to
NW 53rd Street

This street lies two blocks south of West Adams Street in a developing area. A request has been made to vacate that portion of West Madison Avenue running generally between NW 49th Street and NW 53rd Street. When the area was viewed, it was noted that a forested drainageway dissects the street to be vacated in a southwesterly-northeasterly direction. When viewed from the west looking down to the trees, the vacated street appeared as part of an open field. When viewed from the east, it appears there is a line of trees growing along the south half of the street right-of-way from the east end to the forested drainageway. There is also a significant bank along the tree line. While no utilities were apparent within the area, Public Works has indicated the existence of a sanitary sewer on the south half of the street to be vacated and has asked that an easement be retained over the south 30 feet. They have also indicated the area is to be re-platted with necessary streets and utility easements dedicated at locations in accordance with that plat.

It appears only one of the three petitioners, Duane Hartman, is involved in the re-platting process. In situations like this where an area is being re-platted and new right-of-way dedicated to replace the existing streets being vacated, it is common to deed the vacated street back to the developer at no cost in exchange for the new right-of-way dedicated in the plat. It is suggested this be done with the street portion lying adjacent to Mr. Hartman's lots.

However, there are owners of individual lots on each end of the area to be vacated who will not be a party to the re-platting process and therefore not dedicating any right-of-way back to the City. In this case, it would be deemed appropriate they pay for the portion of the vacated street which they acquire.

Lot 1, Block 8, Olympic Heights 1st Addition lies adjacent to the south side of the west end of the area to be vacated. One-half of the street right-of-way adjacent to that lot consists of a strip 27-1/2 feet in width and approximately 2,758 square feet in area. A buildable lot in this area is estimated to have a value of \$2.25 per square foot. An abutting property owner would rarely, if ever, pay the full assembled value for a narrow strip such as this. In this writer's opinion, they would be more apt to pay 30% to 40% of that value for unencumbered land. In this case, Public Works has asked for an easement to be retained over the entire area which would be sold to this abutting owner. In that case, it is estimated a value of 25% of its assembled value would be appropriate. The calculations are as follows:

$$2,758 \text{ sq. ft.} \times \$2.25 / \text{sq. ft.} \times 25\% = \$1,551.38 \text{ called } \$1,550.00$$

A similar situation exists on the easterly end adjacent to Lot 1, Block 1, Olympic Heights Addition which is located on the south side of West Madison Avenue at NW 49th Street. The area to be vacated adjacent to this lot would consist of a strip 27-1/2 feet wide and 112.83 feet long containing

Street Vacation
West Madison Avenue
October 23, 2002
page 2

approximately 3,103 square feet in area. As previously indicated, this portion of the street right-of-way is vegetated with a line of trees. There is also a significant grade differential between the street right-of-way and the abutting lot with the abutting lot being four to six feet higher than the street right-of-way. It is difficult to discern whether this is a result of fill being added into the lot or removed from the area of the street. However, the result is a very steep bank which appears to be located along the southerly portion of the street right-of-way. This grade differential will limit the utility of this strip if it were assembled into the abutting lot. Because of this, a value of 15% of its assembled value is considered appropriate. The calculations are as follows:

$$3,103 \text{ sq. ft.} \times \$2.25/\text{sq. ft.} \times 15\% = \$1,047.26 \text{ called } \$1,050$$

In the petition to vacate, the owners of Lot 1, Block 1, Olympic Heights Addition indicated they were not interested in acquiring this strip. The owner of the abutting property on the opposite side of the street, Duane Hartman said he would buy the entire street right-of-way. As previously discussed, it is this writer's opinion if the area is in fact deeded to Mr. Hartman, it should be included with that portion deeded to him at no cost in exchange for the right-of-way dedicated in the re-plat. Therefore, if the area be vacated it is recommended it be sold to the abutting property owners as follows:

½ of street right-of-way adjacent to Lot 1, Block 8, Olympic Heights 1st Addition

– \$1,550

½ of street right-of-way adjacent to Lot 1, Block 1, Olympic Heights

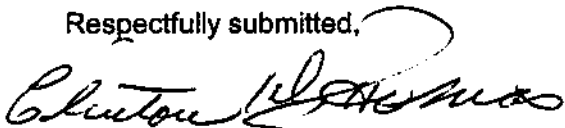
– \$1,050 if sold to abutter on the south

– No charge if included with deed for the remainder of street

Remainder of the street right-of-way abutting Hartman property

– deeded at no charge with the proviso that new right-of-way is dedicated in the re-plat of the surrounding area as recommended by Public Works

Respectfully submitted,



Clinton W. Thomas
Certified General Appraiser #990023

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